

THE HONORABLE JAMES L. ROBERT

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BOMBARDIER INC.,

Plaintiff,

v.

MITSUBISHI AIRCRAFT
CORPORATION, MITSUBISHI
AIRCRAFT CORPORATION AMERICA,
INC., et al.,

Defendants.

No. 2:18-cv-1543-JLR

DECLARATION OF ANDREW TELESKA IN
SUPPORT OF OPPOSITION TO
PLAINTIFF'S MOTION FOR A
PRELIMINARY INJUNCTION

FILED UNDER SEAL

I, ANDREW TELESKA declare:

1. I am the Head of Certification Management Office for Mitsubishi Aircraft Corporation ("MITAC"). I am over the age of 18 and competent to testify and I make this declaration based on my personal knowledge.

2. My job is to lead the team that is ultimately responsible for obtaining the necessary certifications for the Mitsubishi Regional Jet ("MRJ"). I joined MITAC in Nagoya, Japan in January 2017. Before that, I worked 10 years for The Boeing Company in Everett, Washington. In my last position at Boeing, I was the Lead Certification Engineer for the 777X Program. Here at MITAC, I am the person ultimately responsible for representing to the certifying agencies that the MRJ is safe and meets all applicable aviation regulations.

DECLARATION OF ANDREW TELESKA –

1 3. I have a basic understanding of the allegations Bombardier is making in this
2 lawsuit and can speak directly to some of its assertions.

3 4. I am not aware of anyone using any Bombardier documents or trade secrets in their
4 work on our certification efforts and I will not allow that to occur under my leadership under any
5 circumstances.

6 5. I can speak to some of the assumptions underlying Bombardier's core claims,
7 particularly as they relate to the Certification Management Office. (Others at MITAC can speak
8 to the broader organization.) Specifically, there is no truth whatsoever to the allegation that my
9 group has been specially targeting Bombardier employees in order to obtain Bombardier's trade
10 secrets relating to airplane certification. Nor is it true in any respect that as a result of hiring
11 former Bombardier employees MITAC's certification "prospects look suddenly promising." This
12 is wrong on so many levels.

13 6. First, my certification team is not singling out Bombardier employees in our
14 recruiting. To the contrary, we are hiring aerospace engineers with experience in airplane
15 certification from all over the world. We have hired from Boeing, Airbus, Embraer, NASA,
16 British Aerospace, and dozens of smaller aerospace companies. We have also hired certification
17 specialists from the leading regulatory agencies, including the United States Federal Aviation
18 Administration ("FAA"), the European Union Aviation Safety Agency ("EASA"), Brazil's
19 National Civil Aviation Agency ("ANAC") and Transport Canada Civil Aviation ("TCCA").
20 There are, in sum, many dozens of companies and agencies around the world where aerospace
21 engineers can gain meaningful skills and experience in airplane certification and we have hired
22 from these many different sources rather than targeting any one company or agency. Nor is there
23 anything unusually unique or valuable about the work experience of Bombardier employees
24 compared with the other employees we have hired to help certify the MRJ. In my group, it is
25 demonstrably untrue that former Bombardier employees have been disproportionately hired. Nor
26 have former Bombardier employees disproportionately contributed to our certification efforts.

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1 7. To illustrate, I have eleven managers (team leaders and above) who report to me
2 and help lead our certification efforts. Not one came from Bombardier. My group leaders came
3 from Embraer, Airbus, Rolls Royce, ANAC, and other Mitsubishi Heavy Industries group
4 companies. I came from Boeing. More broadly, there are fifty-nine employees in my
5 organization. Only one previously worked at Bombardier, and that was for only three years of the
6 employee's more than 30-year aerospace career.

7 8. I understand that Bombardier's claims center around approximately 11 documents
8 that Bombardier alleges contains specific information about Bombardier's work to certify
9 Bombardier's C-Series and other planes. I have read the Burns and Tidd Declarations that refer to
10 these 11 documents, but I have not reviewed those documents and their contents have not been
11 shared with me. Based on my reading of the Burns and Tidd Declarations, I understand that some
12 of the 11 documents concern the certification of systems relating to flap skew detection, the pitot
13 static system, the air data system, and flight performance data. I will assume for the purposes of
14 this declaration that the documents do contain specific information relating to how Bombardier
15 certified certain aspects of these systems for its aircraft.

16 9. It is important initially to understand how Bombardier's allegations fit within the
17 scope of certifying an airplane. I estimate that the MRJ will require compliance demonstrations
18 for approximately 16,700 different aspects of the airplane—that is, individual demonstrations that
19 particular aspects of the plane are safe and comply with an applicable regulation. These 16,700
20 proofs will be contained in approximately 3,500 different compliance documents that are
21 carefully prepared and presented to the JCAB. Thus, the 11 documents Bombardier identifies in
22 its papers would relate to only the tiniest fraction of our overall efforts even if we did want to use
23 them, which we do not. To put this in another perspective, the three systems the Bombardier
24 documents relate to—the skew detection system, the pitot static system and the air data system—
25 are accounted for in just a handful of the approximately 250 pages of the System Description
26 Document for the Flight Control System ("FCS") used to describe the design for certification.

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1 Certification of the FCS, in turn, is one of 58 different certification plans capturing the overall
2 compliance work necessary for the MRJ. In other words, even if the 11 documents completely
3 addressed certification of the skew detection, pitot static and air data systems, which I'm sure they
4 do not, the three sub-systems represented by the Bombardier documents together comprise only a
5 fraction of 1% of the total certification universe.

6 10. I understand that Bombardier claims that the 11 documents were used to "fast-
7 track MRJ certification." This is false. To the best of my knowledge, none of the 11 Bombardier
8 documents have ever been in MITAC's possession and I am aware of nothing that would suggest
9 any of them were used to help with the certification efforts of the MRJ. Not only is the allegation
10 factually unfounded, but the underlying premise is wrong. Bombardier's argument assumes that
11 if something worked previously with the TCCA (or the FAA or any other certifying agency) then
12 that same approach will also work with the JCAB. However, this premise has repeatedly proven
13 untrue in the case of the MRJ.

14 11. I believe that one of the main reasons for this is that the MRJ is the first
15 commercial airplane the modern JCAB has attempted to certify. As a result, each compliance
16 review is novel to the inspector, resulting in a lack of common assumptions and understanding
17 between the regulator and the applicant. In my experience working with other agencies, they
18 would often accept precedent and what we refer to as "engineering judgment" to support that
19 particular aspects of a plane's design meet compliance requirements. That is not the case with the
20 JCAB. This is especially true when dealing with what we refer to as non-prescriptive regulations.
21 By way of background, airplane safety regulations can be broken into two general categories:
22 prescriptive regulations and non-prescriptive regulations. A prescriptive regulation might require
23 that the width of an aisle be greater than 15 inches, for example. A non-prescriptive regulation,
24 by contrast, might require that a particular airplane part perform its "intended function" or have
25 behavior that is "predictable and unambiguous." Non-prescriptive regulations have proved the
26 most challenging as this is the area where the JCAB is the least likely to accept the types of

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1 precedent and “engineering judgment” that are generally accepted by other agencies. Thus,
2 knowing that a particular approach to certification worked previously with another agency isn’t
3 particularly helpful to our efforts. Almost to an extreme, the JCAB operates under a “prove it”
4 approach. On some occasions they have even required that we demonstrate that an existing FAA
5 regulation is valid and appropriate.

6 12. One example illustrates my overall point. A key member of my team is a former
7 regulator from Canada’s TCCA. At MITAC, she was in charge of putting together the
8 certification plans for the MRJ’s interior systems, which includes things like the cabin layout,
9 waste water system, cargo holds, and oxygen systems. As a former regulator with the TCCA, she
10 has detailed knowledge of what the TCCA has historically relied upon when certifying other
11 airplanes, including Bombardier’s C Series planes. She used this experience to develop a
12 certification approach based on these Canadian standards. What she (and we) learned through
13 this process was that the JCAB would not accept various steps in a certification plan simply
14 because the TCCA or another agency had previously accepted the same test, engineering principle
15 or other approach to certification. Rather, she was repeatedly required to prove every step of the
16 process, literally from the ground up. Her detailed knowledge of what the TCCA had previously
17 accepted, which is more than what any former Bombardier employee would know, proved to be
18 not only of little value, but actually detrimental in some respects, as the JCAB often required her
19 to reinvent the wheel in order to clarify basic assumptions of the aerospace industry, rather than
20 accept specific approaches that she knew from her experience at the TCCA were valid.

21 13. This same pattern has played out repeatedly during the certification process with
22 the JCAB. I experienced this first hand when I proposed a compliance approach for safety
23 analysis documentation in support of MRJ Type Inspection Authorization to the JCAB. I based
24 my proposal on public TCCA documentation that explicitly described what the TCCA required to
25 satisfy this safety requirement. Even though clear documentation was available showing that
26 TCCA would accept MITAC’s position, this carried no weight with the JCAB. It disregarded

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1 clear evidence of what the TCCA had previously accepted, and imposed a different and stricter
2 requirement that resulted in a delay to program testing. These kinds of instances, usually
3 involving JCAB approval relating to non-prescriptive regulations, is one of the primary reasons,
4 in my view, that it has taken so long to certify the MRJ. We have repeatedly been required to
5 return to core aeronautical principles to prove that each part of the MRJ is safe and airworthy. As
6 a result, it has become clear that specific experience or knowledge about compliance precedents
7 set by other regulatory agencies has simply not been very valuable to our program. What has
8 been valuable is good engineering and hard work.

9 14. MITAC does not presently intend to seek certification with the TCCA because it
10 has no Canadian customers at the present time.

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12
13 I declare under penalty of perjury that the foregoing is true and correct.

14 Signed this 25th day of April, 2019, at Nagoya, Japan.

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17 _____
18 Andrew Telesca
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CERTIFICATE OF SERVICE

I certify under penalty of perjury that on May 13, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the email addresses indicated on the Court's Electronic Mail Notice List.

DATED this 13th day of May, 2019.

s/Jerry A. Riedinger
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